

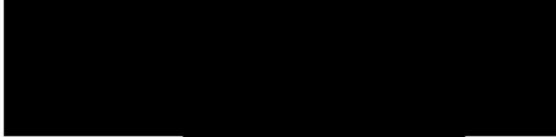
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U.S. Citizenship
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FILE:

MSC 02 227 61241

Office: NEW YORK

Date:

MAR 17 2008

IN RE: Applicant:

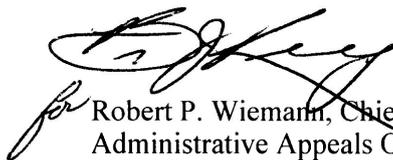


APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits [or Records] Center. You no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case. If your appeal was sustained or remanded for further action, you will be contacted.


for Robert P. Wieman, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, New York City. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act.

On appeal the applicant states that he has been trying to improve his written English, but has been hampered by age and poor health.

Under section 1104(c)(2)(E)(i) of the LIFE Act, regarding basic citizenship skills, an applicant for permanent resident status must demonstrate that he or she:

- (I) meets the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a))(relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or
- (II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

Under section 1104(c)(2)(E)(ii) of the LIFE Act, the Attorney General may waive all or part of the above requirements for aliens who are at least 65 years of age or who are developmentally disabled. *See also* 8 C.F.R. § 245a.17(c).

An applicant may establish that he or she has met the requirements of section 312(a) of the Immigration and Nationality Act (Act) by demonstrating an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language and by demonstrating a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States. *See* 8 C.F.R. § 245a.17(a)(1) and 8 C.F.R. §§ 312.1 and 312.2.

An applicant may also establish that he or she has met the requirements of section 312(a) of the Act by providing a high school diploma or general educational development diploma (GED) from a school in the United States. *See* 8 C.F.R. § 245a.17(a)(2).

Finally, an applicant may establish that he or she has met the requirements of section 312(a) of the Act by providing evidence that he or she has attended or is attending a state recognized, accredited learning institution in the United States, following a course of study which spans one academic year and that includes 40 hours of instruction in English and United States history and government. The

applicant may provide documentation of such on the letterhead stationery of said institution prior to or during the LIFE interview. *See* 8 C.F.R. § 245a.17(a)(3).

The applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the initial LIFE interview shall be afforded a second opportunity after 6 months: to pass the tests; to submit evidence of a high school diploma or GED from a school in the United States; or to submit evidence that he or she has attended or is attending a state-recognized, accredited learning institution in the United States, following a course of study which spans an academic year and that includes 40 hours of instruction in English and United States history and government. *See* 8 C.F.R. § 245a.17(b).

On May 15, 2002, the applicant filed his Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act.

On March 11, 2004, the applicant was interviewed in connection with his LIFE Act application. He failed to demonstrate a basic understanding of ordinary English and a basic knowledge of U.S. history and government during the examination portion of the interview.

On the same date, March 11, 2004, the director issued a notice of intent to deny (NOID) in which she indicated that the applicant had failed the basic citizenship skills examination at his LIFE interview. The applicant was notified that he would have a second and final re-examination on September 17, 2004. The director indicated that if the applicant failed that examination or if he failed to appear for the second interview, his LIFE Act application would be denied.

At his second interview on September 17, 2004, the applicant passed the U.S. history and government part of the examination, but failed the English writing part. The applicant was given another chance on August 12, 2005, but again failed to pass the English writing part of the examination.

On August 12, 2005, therefore, the director denied the application for failure of the applicant to satisfy the basic citizenship skills required for LIFE legalization.

On appeal the applicant states that he has been trying to improve his written English, but has been hampered by his advancing age and poor health over many years. The record includes a previously submitted letter from [REDACTED] in Brooklyn, New York, dated September 10, 2004, certifying that the applicant attended English as a Second Language classes at the school, that he completed the Level 1 course from July 19 to September 10, 2004, and that he was enrolled in the Level 2 course scheduled to begin on September 13, 2004. No further evidence has been submitted to indicate whether the applicant successfully completed the Level 2 course. The applicant has submitted no documentary evidence that [REDACTED] is a state recognized, accredited learning institution, or that his course of study spanned a full academic year and included 40 hours of instruction in English and U.S. history and government, as required under 8 C.F.R. § 245a.17(a)(3).

Thus, the applicant's English language study, as documented in the record, falls short of the requirements set forth in 8 C.F.R. § 245a.17(a)(3) to meet the "basic citizenship skills" requirement of the LIFE Act.

Nor has the applicant satisfied the "basic citizenship skills" requirement under the other two alternatives established in the regulations. He has not provided a high school diploma or GED from a school in the United States, as required under 8 C.F.R. § 245a.17(a)(2), and he did not pass the English language component of his basic citizenship skills examination, as required under 8 C.F.R. § 245a.17(a)(1), at any of his three LIFE legalization interviews.

The applicant is not 65 years old or older and, though the record includes some medical records indicating that the applicant has suffered some physical ailments in recent years, they do not indicate that he is developmentally disabled. Thus, the applicant does not qualify for either of the exceptions listed in section 1104(c)(2)(E)(ii) of the LIFE Act.

The applicant has failed to demonstrate that he has met the basic citizenship skills requirement as described at 1104(c)(2)(E) of the LIFE Act. Accordingly, he is not eligible to adjust to permanent resident status under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.